

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

| | | |
|------------------------|---|-----------------------|
| HARDY INGRAM, |) | |
| Petitioner, |) | |
| |) | C.A. No. 04-40155-GAO |
| v. |) | |
| |) | |
| DAVID L. WINN, WARDEN, |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

On August 17, 2004, Hardy Ingram, an inmate at FMC Devens, filed his self-prepared petition for writ of habeas corpus under 28 U.S.C. § 2241. For the reasons stated below, the Court grants petitioner forty-two (42) days to either file an Application to Proceed Without Prepayment of Fees or pay the \$5.00 filing fee.

DISCUSSION

A party filing a habeas action in this Court must either (1) pay the \$5.00 filing fee for habeas corpus actions or (2) file an application to proceed without prepayment of fees on the form required by this Court entitled "Application to Proceed Without Prepayment of Fees and Affidavit" (the "Application"). See Fee Schedule for the District of Massachusetts; 28 U.S.C. § 1914(a) (fees); 28 U.S.C. § 1915 (proceedings in forma pauperis).

Petitioner failed to pay the \$5.00 filing fee and has not filed a request for waiver of the filing fee. Petitioner will

be granted forty-two (42) days from the date of this Memorandum and Order, to pay the \$5.00 filing fee or file an Application to Proceed Without Prepayment of Fees and Affidavit. Should such filing fee or application not be filed within forty-two (42) days, the petition will be subject to dismissal without prejudice for failure to pay the filing fee.

ORDER

ACCORDINGLY, for the reasons stated above, it is hereby ORDERED, the petitioner shall, within forty-two (42) days from the date of this Memorandum and Order, either pay the \$5.00 filing fee or file an Application to Proceed Without Prepayment of Fees. The Clerk shall send petitioner with this Memorandum and Order an Application to Proceed Without Prepayment of Fees.

SO ORDERED.

Dated at Boston, Massachusetts, this 7th day of September 2004.

/s/ George A. O'Toole, Jr.
GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE